

FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

GREGORY DICKENS,
Petitioner-Appellant,

v.

CHARLES RYAN,
Respondent-Appellee.

No. 08-99017

D.C. No.
CV-01-757-
PHX-NVW

ORDER

Filed January 4, 2013

ORDER

KOZINSKI, Chief Judge:

Upon the vote of a majority of nonrecused active judges, it is ordered that this case be reheard en banc pursuant to Federal Rule of Appellate Procedure 35(a) and Circuit Rule 35-3. The three-judge panel opinion shall not be cited as precedent by or to any court of the Ninth Circuit.